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172A 3806 PCT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
TSUYOSHI OHSHIMA
Serial No.: 10/566,287
Filed: January 27, 2006
For: PIEZOELECTRIC OSCILLATOR

Mail Stop: PETITION

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON
FAILURE TO RECEIVE NOTICE OF ALLOWANCE**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant in the above-identified application hereby petitions the Commissioner to revive the application which has been abandoned, and Applicant makes this petition based upon the facts below:

1. The above-identified patent application, U.S. Serial No. 10/566,287, was entered into the U.S. National Stage on January 27, 2006 based upon PCT/JP2004/011096.
2. On December 15, 2006, an Information Disclosure Statement was sent to the Patent Office, and on July 26, 2007, a Preliminary Amendment was sent to the Patent Office and received by the Patent Office on July 30, 2007.
3. With no office action issued, on November 9, 2007, the undersigned received a Notice of Abandonment (copy attached). The Notice states, "This application is abandoned in view of applicant's failure to timely pay the required issue fee and publication fee within the statutory period of three month from the mailing date of the Notice of Allowance. The issue fee and publication fee has not been received." However, the undersigned has never received the Notice of Allowance.
4. Since the undersigned did not received the Notice of Allowance, the undersigned investigated this matter and found through PAIR that a Notice of Allowance was mailed by the Patent Office on July 10, 2007. The undersigned then searched the undersigned's office and confirmed that a Notice of Allowance has never been received on the above-identified application by the undersigned, and therefore, no docketing has been made for the Notice; and as a result, no recordation of the receipt of the Notice of Allowance was made on the file jacket of the above-identified application nor in the docket records. A copy (reduced copy) of the front cover of the file for the above-identified application and a copy of the docket record for October 10, 2007 where an Issue fee and a Publication fee due would have been entered had the July 10, 2007 Notice of Allowance been received and docketed are attached.

5. Though the undersigned relocated his office to the current address, it was August 20, 2007, and the Notice of Abandonment is printed with the current address of "865 S. Figueroa Street, ...", and a Notice re Rule 312 Communication regarding the undersigned's July 26(30), 2007 amendment, which is dated August 13, 2007, was duly delivered to and received by the undersigned on August 17, 2007 since it has the undersigned's old address of "2029 Century Park East ..." In view of the above, the July 10, 2007 Notice of Allowance that has the undersigned's old address would have been safely received by the undersigned during the month of July, 2007; and since the undersigned did not receive the Notice of Allowance, the July 10, 2007 Notice of Allowance must have been lost in the mail.

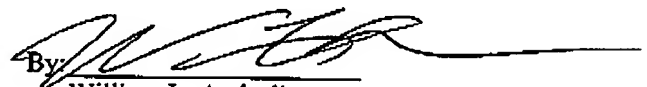
6. In view of the above, the undersigned hereby states that it was not possible for the undersigned to respond to the July 10, 2007 Notice of Allowance and a delay of a response (a payment of the required issue and publication fees) was unavoidable or at least unintentional.

7. Accordingly, the undersigned hereby respectfully requests that the Patent Office withdraw the abandonment of the above-identified application, revive the application to bring it back to pending and re-mail the Notice of Allowance to the undersigned at the address shown below (which has been already recorded in the Patent Office) as soon as reasonably possible.

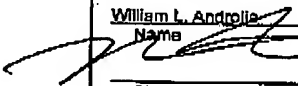
8. Though the petition fee is not required as noted in Item 2 of the Attachment to Notice of Abandonment, if it is, please charge such to Koda & Androlia Deposit Account No. 11-1445.

The undersigned declares that all statements made herein are of my own knowledge and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

By: 
William L. Androlia
Reg. No. 27,177

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Email: thomasedison@quinnemanuel.com

Certificate of Transmission	
I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office Fax No. (571)273-8300 on	
November 21, 2007	
Date of Deposit	
William L. Androlia	
Name	
	
Signature	11/21/2007
	Date

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,287	01/27/2006	Tsuyoshi Ohshima	172A3806PCT	5515

EXAMINER	
JOHNSON, RYAN	

ART UNIT	PAPER NUMBER
2817	

MAIL DATE	DELIVERY MODE
11/05/2007	PAPER

7580 11/05/2007
QUINN EMANUEL
KODA & ANDROLIA
865 S. FIGUEROA STREET, 10TH FLOOR
LOS ANGELES, CA 90017

Notice of Abandonment

This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____.
The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Attachment to Notice of Abandonment**RECEIVED
CENTRAL FAX CENTER
NOV 21 2007****For questions concerning the notice contact****Office of Patent Publication****Image Assistance Center: 888-786-0101.**Information is also available on the USPTO Internet web site:
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>**Respond to the Notice of Abandonment by one of the following:**

1. **Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

2. **Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

3. **Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450
By facsimile: 571-273-8300

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment

Revised Sept. 2006

Inventor Tsuyoshi Ohshima et al.
Serial Number 10/566,287 Date Filed 1/27/06 19
Title Piezoelectric oscillator

Assignee Toyo Communication Equipment Co., Ltd. + NEC Electronics Corporation
Assignment Record 1/27/06 Reel 017516 Frame 0957

PAPERS FILED AND/OR RECEIVED FROM THE PATENT OFFICE

App. filed	1/27/06	Priority Due	2-5-06
IDS	1/27/06		
PAM	1/27/06		
IDS	12/15/06		
Preliminary Amendment filed	7/26/07		

Allowed

Patent Number

Additional Issue Fee Due

Washington Associates

Attorney Responsible

Piezoelectric Oscillator

October 10

September 2007							October 2007						
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9	9	10
7:00	7:00	7:00
7:30	7:30	7:30
8:00	8:00 Kyoma 3124 (GXP) Appeal	8:00 Sena / B60 Sou ②
8:15	8:15 RCE-FAVED 5/18/07	8:15 Petition filed
8:30	8:30	8:30
8:45	8:45	8:45
9:00	9:00 Koito / 3A 3786	9:00 Sena / B69 Sou ①
9:15	9:15 B/E/PF DUC	9:15 petition filed
9:30	9:30 paid 10/9/07	9:30
9:45	9:45	9:45
10:00	10:00 Yamaha 0743629 NOA DUC	10:00 TANO 3663 OA
10:15	10:15 paid 10/9/07	10:15 1st received 9/25/07
10:30	10:30	10:30 10/10/07
10:45	10:45	10:45
11:00	11:00 Miyake 3599 OA	11:00 Nakag 3561-DIV ⑤
11:15	11:15 sent by mail 9/25/07	11:15 A. V. ...
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